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CORPORATION and Counterdefendants GOLDEN
MEDIA GROUP, INC. and TIGA
ENTERTAINMENT COMPANY, LTD.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UM CORPORATION, a Japanese
corporation,

Plaintiff,

v.

TSUBURAYA PRODUCTIONS CO.,
LTD., a Japanese corporation,

Defendant.

Case No. 2:15-cv-03764-AB (AJWx)

**PLAINTIFF AND
COUNTERDEFENDANT UM
CORPORATION'S EVIDENTIARY
OBJECTIONS TO DECLARATION
OF KEI MINAMITANI IN SUPPORT
OF DEFENDANT AND
COUNTERCLAIMANT
TSUBURAYA PRODUCTIONS CO.
LTD.'S MOTION FOR SUMMARY
JUDGMENT [Dkt. 140]**

Date: July, 24, 2017
Time: 10:00 a.m.
Location: Courtroom 7B

AND RELATED CROSS-CLAIMS

Motion Hrng. Cutoff: July 24, 2017
Pretrial Conf.: October 16, 2017
Trial: November 7, 2017

Plaintiff and counterdefendant UM Corporation (“UMC”) respectfully objects to the Declaration of Kei Minamitani in Support of Defendant and Counterclaimant Tsuburaya Productions Co. Ltd.’s Motion for Summary Judgment [Dkt. 140] (“Minamitani Decl.”), filed by defendant and counterclaimant Tsuburaya Productions Co. Ltd. (“TPC”) on June 5, 2017, on the grounds set forth below.

I. EVIDENTIARY OBJECTIONS.

A. Defined Evidentiary Objections.

UMC asserts the following defined evidentiary objections with regard to each factual statement as to which the defined objection is asserted below:

1. UMC objects to the evidence on the ground that the facts are immaterial to the issues presented by TPC’s Motion for Summary Judgment and that, in light of the immateriality of such evidence to the issues presented by the Motion, its probative value, if any, is substantially outweighed by a danger of wasting time, especially in light of UMC’s need to introduce evidence to refute such facts, *see* Fed. R. Evid. 403 (“**Immateriality Objection**”).

2. UMC objects to the evidence as lacking foundation (“**Lack of Foundation Objection**”).

3. UMC objects to the evidence as hearsay, as it is being offered for the truth of the matter asserted and no hearsay exception applies, *see* Fed. R. Evid. 802 (“**Hearsay Objection**”).

4. UMC objects to the evidence to the extent that it relies upon a definition of the term “original” Ultraman works that omits three of the works identified in the 1976 Agreement on the ground that such omission renders certain statements misleading (“**Incomplete Definition Objection**”).

5. UMC objects to the evidence on the ground that Mr. Minamitani does not have personal knowledge of certain purported facts stated in his declaration, *see* Fed. R. Evid. 602 (“**Personal Knowledge Objection**”).

6. UMC objects to the evidence on the ground that Mr. Minamitani states a legal opinion from a lay witness and that such opinion constitutes an improper legal conclusion in violation of Fed. R. Evid. 701 (**“Improper Legal Conclusion Objection”**).

B. Specific Evidentiary Objections.

1. **Minamitani Decl., ¶ 3: Incomplete Definition Objection.** Mr. Minamitani’s definition of “original” Ultraman works omits three works that are identified in the 1976 Agreement: Giant vs. Jambo ‘A’, Haruman and the Seven Ultraman, and Jamborg Ace. Thus, Mr. Minamitani’s incomplete definition of “original” works renders other portions of his declaration misleading.

2. **Minamitani Decl., ¶ 5: Immateriality Objection.** Mr. Minamitani’s statements about TPC’s creation of “monster” characters, TPC’s investment in the Ultraman works, and the popularity of Ultraman are immaterial to the issues raised by TPC’s motion.

3. **Minamitani Decl., ¶¶ 6–10: Incomplete Definition Objection; Personal Knowledge Objection; Lack of Foundation Objection; Hearsay Objection; Immateriality Objection.** As noted above, Mr. Minamitani’s conclusions based on his incomplete definition of “original” works are misleading. Further, Mr. Minamitani states that he has worked for TPC since 2009 (Minamitani Decl., ¶ 1), yet he makes statements about his “understanding” of events taking place within TPC between 1976 and 1996, well before his employment. Thus Mr. Minamitani’s statements are based on unspecified hearsay instead of his personal knowledge, and Mr. Minamitani has not established foundation for such statements. Additionally, Mr. Minamitani’s description of TPC’s history of negotiations with Sompote Saengduenchai (“Sompote”) is immaterial to the issues raised by TPC’s Motion. This evidence should also be excluded under Fed. R. Evid. 403 because any probative value of this evidence is substantially outweighed by a danger of wasting time, as TPC’s submission of such evidence required UMC, out of caution, to

1 respond with substantial and detailed evidence to respond to evidence based upon
2 which TPC is apparently not seeking summary judgment.

3 4. Minamitani Decl., ¶ 8 (p. 4, lines 21–24) (“Given the overlapping and
4 limited channels of distribution of works within the *kaiju* genre, it is very likely that
5 if both TPC and Sompote were exercising rights in Ultraman outside of Japan
6 between 1976 and 1995, they would have known of this”): **Lack of Foundation**
7 **Objection.** Mr. Minamitani’s statement lacks any foundation because he fails to
8 establish any basis to show the allegedly limited channels or distribution of *kaiju*
9 works. Thus his speculation that TPC would have known about Sompote’s exercise
10 of rights under the 1976 Agreement has no support.

11 5. Minamitani Decl., ¶ 10 (p. 5, lines 14–17) (“TPC continues to
12 distribute new Ultraman works both within and outside of Japan because it does not
13 believe Sompote has a plausible claim to the rights to such works, even if the alleged
14 1976 Document is valid, and in TPC’s understanding, no court has ever ruled that he
15 does”): **Improper Legal Conclusion Objection.** Mr. Minamitani’s statement
16 includes improper legal conclusions as to TPC’s right to distribute “new” Ultraman
17 works, Sompote’s rights under the 1976 Agreement, and the interpretation of rulings
18 by courts in multiple countries.

19 Dated: June 23, 2017

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22 By:

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